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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,173	10/31/2003	Vivek Jain	JP920030155US1	1599
7590 Frederick W. Gibb, III McGinn & Gibb, PLLC Suite 304 2568-A Riva Road Annapolis, MD 21401				
EXAMINER				
AHMED, AFFAF				
ART UNIT		PAPER NUMBER		
3622				
MAIL DATE		DELIVERY MODE		
08/31/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/699,173

Applicant(s)

JAIN ET AL.

Examiner

AFAF AHMED

Art Unit

3622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Afaf Ahmed
Examiner
Art Unit: 3622

/Yehdega Retta/
Primary Examiner, Art Unit 3622

Continuation of 11, does NOT place the application in condition for allowance because:

1. With regard to claims 43, 68 and 84 rejection under 35 U.S.C. 112 second paragraph, Examiner thanks Applicant for pointing out the typographical error of the cited limitation. However, that does not mitigate the fact that the Examiner's rejection under 35 U.S.C. 112, second paragraph has yet to be cured.

Claims 43, 68 and 84 recite the limitation of: "determining a shopper-group interaction measure from said individual shopper data and said group shopper data, said group shopper data comprising a record of or previous interaction between individuals within a shopping group performing said group shopping and wherein said previous interactions comprise at least one of: an individual shopper making a proposal to the shopping group; said individual shopper voting on a proposal to the shopping group; said individual shopper paying for a shopper's individual share of the at least one group purchase and said individual shopper paying for the at least one group purchase" and "wherein said shopper-group interaction measure comprises an index, comprising at least of the affinity index, leadership index, conformity index, assertiveness index".

Here, for instance, the limitation of "said individual shopper paying for a shopper's individual share of the at least one group purchase" does not correspond with:

1) the first limitation of affinity index "a number of time an individual shopper has voted with other members of the shopping group" or 2) conformity index, nor 3) an assertiveness index. Therefore, the 35 U.S.C. 112 second paragraph rejection is maintained.

2. With regard to claims 43, 68 and 84, Applicant argues that "nowhere Sundaresan disclose, teach or suggest at least the claimed features of: "leadership index, said the leadership index being determined from records of purchase proposals of an individual shopper and a number of time others shoppers in the shopping group has followed said purchase proposals".

It appears that Applicant has misinterpreted the Examiner's rejection, which indicates that there is no explicit indication of the claimed feature in the reference.

However, Sundaresan in at least column 3, lines 10-17 discloses a method that facilitates in bringing the user's shopping experience closer to traditional shopping experience. The method provides user with ability to chat with other shoppers browsing similar items in a conventional e-store and the ability to exchange suggestions and recommendations regarding the available selection of products. Sundaresan also in at least column 4, lines 52-67 discloses a chatting window comprises at least two panes that provide the user with the ability to engage in the shopping/ browsing experience while chatting with one or more additional shoppers to directly relate to and influence the user's shopping experience. Furthermore, Sundaresan in at least column 5, lines 1-27 discloses a server that can access stored information regarding previous visits and purchases made by the shopper including past co-browsing behavior.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Sundaresan's method and system of shoppers chatting (making recommendation) with other users of similar characteristics and/or interest with a record of times other shopper shopper's have followed such a recommendation with the motivation of allowing advertisers to quickly identify certain group interest and/ or product.

3. Applicant argues that "nowhere does Moffett disclose, teach or suggest at least the present invention's claimed features of: "leadership index, said the leadership index being determined from records of purchase proposals of an individual shopper and a number of time others shoppers in the shopping group has followed said purchase proposals". Examiner respectfully disagrees. Moffett's reference was used to address the limitation of group shopping consisting multiple individuals making at least one group purchase.

4. With regard to claim 58, Applicant argues that the Sundaresan does not disclose, teach or suggest determining "a group compatibility and agreement index based on a time series analysis of shopping group, other activities on a site of said merchant prior to joining the shopping group by said individual shoppers, and behaviors of individual shoppers after joining the shopping group". Examiner respectfully disagrees. Claim 58 recites: wherein said shopper-group interaction measure comprises an index, comprising at least one of: a group compatibility and agreement index, a maturity index, a group youthfulness index and harmony index", which recites optional language. Here, the phrase (at least one of) is the language that suggests or makes optional but does not limit the scope of a claim limitation. It has been held that "language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C)". The Examiner has rejected the limitation of: a group of youthfulness index (see the Final Office rejection).

5. With regard to claims 43, 68 and 84, Applicant argues that nowhere does Eldering disclose teach or suggest at least claimed features of: "leadership index, said the leadership index being determined from records of purchase proposals of an individual shopper and a number of time others shoppers in the shopping group has followed said purchase proposals". Examiner respectfully disagrees. Eldering reference is used to address a group of youthfulness index.

6. With regard to claim 58, Applicant argues that nowhere does Eldering disclose teach or suggest at least claimed features of: "a group compatibility and agreement index based on a time series analysis of shopping group, other activities on a site of said merchant prior to joining the shopping group by said individual shoppers, and behaviors of individual shoppers after joining the shopping group". Examiner respectfully disagrees. Claim 58 recites: "wherein said shopper-group interaction measure comprises an index, comprising at least one of: a group compatibility and agreement index, a maturity index, a group youthfulness index and harmony index" wherein said shopper-group interaction measure comprises an index, comprising at least one of: a group compatibility and agreement index, a maturity index, a group youthfulness index and harmony index", which recites optional language. Here, the phrase (at least one of) is the language that suggests or makes optional but does not limit the scope of a claim limitation. It has been held that "language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation (MPEP §2106 II C)".

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